

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION -DETROIT

IN RE:

Bennie R. Ezell, Sr. &  
Debra A. Ezell

Case No.: 14-43098-tjt  
Chapter 13

Debtors,

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Judge: Thomas J. Tucker

Bennie R. Ezell, Sr. &  
Debra A. Ezell

Plaintiffs

v.

ADV. PROC. CASE NO. 14-04464-tjt

US Bank, N.A.

Defendant.

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APPLICATION FOR ENTRY OF DEFAULT JUDGMENT AND AFFIDAVIT IN SUPPORT

Through their attorney Babut Law Offices, PLLC, Plaintiffs Bennie and Debra Ezell state:

1. Plaintiffs' Complaint was filed with this Court on May 12, 2014.
2. Plaintiff's Complaint sought the entry of an Order holding that the second mortgage held by the Defendant US Bank is unsecured.
3. The Defendant was served with process in this action on May 14, 2014, which is verified on the Certificate of Service filed with this Court.
4. The Defendant has elected not to file an answer or take any other action as permitted by law.
5. More than thirty days have elapsed since the date of service of the Summons and Complaint.
6. On June 12, 2014, the Clerk's Entry of Default was entered against the Defendant.
7. Pursuant to LBR 7055-1, a proposed Default Judgment is attached as Exhibit A.

THEREFORE, the Plaintiffs request this Court to enter a Default Judgment against the Defendant as asked for in

the Plaintiffs' Complaint and in conformity with Plaintiffs' proposed Default Judgment.

Dated: June 16, 2014

/s/ Thomas Paluchniak (P70284)  
BABUT LAW OFFICES, PLLC  
Attorney for  
Plaintiff 700  
Towner Street  
Ypsilanti, MI 48198  
(734) 485-7000  
tpaluchniak@babutlaw.com

**AFFIDAVIT IN SUPPORT OF APPLICATION FOR DEFAULT JUDGMENT**

STATE OF MICHIGAN COUNTY OF WAYNE

ss.

Thomas Paluchniak ("Affiant"), being duly sworn, deposes and says that he has prepared the foregoing Application for Default Judgment and believes the contents to be true of his own information, knowledge and belief.

Further, Affiant states that:

1. The Summons was issued on May 12, 2014.
2. The Summons and Complaint were served on May 14, 2014.
3. The Certificate of Service was filed on May 14, 2014.
4. No answer or responsive pleadings have been filed.
5. To the best of Affiant's knowledge, information, and belief, the Defendant is not in the military, nor a minor or incompetent.

/s/ Thomas Paluchniak

Subscribed and sworn to before me this

16th day of June, 2014.

is/Patricia Montgomery  
Notary Public, Wayne County,  
Michigan. acting in Washtenaw County.  
My Commission Expires: 07/30/2019.

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\_\_\_\_\_  
DEFAULT JUDGMENT

\_\_\_\_\_  
Plaintiffs having filed their Complaint to Avoid Unsecured Mortgage on Debtors' Residence on May 14, 2014; the Defendants having failed to answer or otherwise respond to the Complaint; Default having been entered; Plaintiffs having filed their Application for Entry of Default Judgment pursuant to LBR 7055-1; and the Court being otherwise fully advised in the premises:

IT IS ORDERED that:

That upon completion of the Debtors' Chapter 13 plan and the entry of a Chapter 13 discharge order in bankruptcy case number 14-43098, the mortgage ("Mortgage") dated March 28, 2001, covering real property ("Property") situated in the City of Detroit, County of Wayne, State of Michigan, and further described as follows:

WEST 10. FEET OF LOT 193, ALL OF LOT 194, AND EAST 10 FEET OF LOT 195, RIES  
ESTATES SUBDIVISION, CITY OF DETROIT, WAYNE COUNTY, MICHIGAN AS RECORDED IN LIBER  
61, PAGE 3, WAYNE COUNTY RECORD

will be stripped from the Property and discharged.

IT IS FURTHER ORDERED that upon completion of the Debtors' Chapter 13 plan and the entry of a Chapter 13 discharge in bankruptcy case number 14-43098, the Debtors may record a certified copy of this order, with a copy of the Debtors' Chapter 13 discharge attached, with the Wayne County Register of Deeds, which will constitute and effectuate discharge of the Mortgage.

IT IS FURTHER ORDERED that if the Debtors fail to complete their Chapter 13 plan and obtain a Chapter 13 discharge order in bankruptcy case number 14-43098, this order will not affect the validity or enforceability of the Mortgage and may not be used in any subsequent bankruptcy case of the Debtors either to compel the holder of the Mortgage to execute a discharge of the Mortgage, or to otherwise act as a discharge of the Mortgage.

#### EXHIBIT A